



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Bert Ford, Administrator  
Texas Liquor Control Board  
Austin, Texas

Dear Sir:

Opinion No. O-1549

Re: What is the status of territory which is part of a wet precinct and which is annexed to a dry city?

*so far as it conflicts*  
O-6880 fm

Your request for an opinion on the above stated question has been received by this Department.

We quote from your letter as follows:

"A city which is dry is proposing to annex some territory which is a part of a local precinct which is wet. I would like your opinion as to the status of the annexed territory, whether it will retain its wet status or whether it will take the status of the annexing city as dry."

On March 4, 1936, this Department rendered an opinion written by Honorable Leon O. Moses, Assistant Attorney General, addressed to Honorable Jess V. Brown, Fort Worth, Texas, holding that where a precinct as a whole has prohibited the sale of intoxicating liquors no portion thereof may legalize the sale of beer.

We quote from the case of Griffin v. Tucker, 118 S. W. 636, as follows:

"In the right given to a subdivision is implied the power by adopting prohibition to put a rule in force whereby the sale of liquor shall be made unlawful in every foot of its territory, and from this it results that no part of that territory can make the sale lawful in such part, since that would be incon-

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sistent with the power of the larger so to establish the law throughout its extent. And this is not allowed to affect the right of an included subdivision to adopt the law for itself when it has been rejected by the including one."

The courts have repeatedly held that there cannot be a wet precinct within a dry county, therefore, it would naturally follow that there could not be a wet area within a dry precinct. See Section 20, Article 16, of the State Constitution, Article 666-23 of the Penal Code, and the cases of Coker, County Judge v. Kmeleik, 87 S. W. (2d) 1076, Walling v. King, County Judge, 87 S. W. (2d) 1074, Aaron v. State, 29 S. W. 267, and Ex Parte Fields, 46 S. W. 1127.

In view of the foregoing authorities you are respectfully advised that it is the opinion of this Department that the annexed wet territory would take the status of the annexing dry territory.

Trusting that the foregoing fully answers your inquiry, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

*Ardell Williams*

Ardell Williams  
Assistant

AW:LM

APPROVED OCT 28, 1939

*Gracib. Mann*

ATTORNEY GENERAL OF TEXAS

